

REMARKS

The Final Office Action of August 27, 2010 has been considered by the Applicant. No claims are added, amended, or cancelled. Claims 43-48, 50, and 52-59 are pending. Reconsideration of the Application is requested.

Claims 43-48 and 50 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Arsem (U.S. Patent No. 2,472,361) and Marks (U.S. Patent No. 2,817,621) in view of Katzen (U.S. Patent No. 4,369,199) and Watson (Biological Control, January 2001, vol. 20, pages 8-15). Applicant traverses the rejection.

According to the Examiner, Arsem disclosed trichloromelamine (TCM) as a disinfectant, Marks disclosed a combination of TCM and acid having pH below 5, Katzen disclosed treating an animal habitat with an acid at a pH of about 4, and Watson disclosed that darkling beetles are a "common pest" of chicken and turkey houses. The Examiner reasoned that it would be obvious to use Marks' composition to treat an animal habitat as taught by Katzen. Watson was used to show that Darkling beetles are commonly found in chicken and turkey houses. The Examiner also cited Applicant's disclosure that "reducing the pH of an animal habitat to less than 5 by application of trichloromelamine has indirect insecticide properties."

The Examiner is making an impermissible hindsight reconstruction of the present claims. MPEP § 2145.X.A. Again, none of the cited references discloses the insecticidal properties of TCM; only the present specification does. Because the pending claims are process claims, this use is distinctive and important. Here, this reasoning is not applicable because the prior art does not teach the required linkage.

In the Response to Arguments section, the Examiner also stated that one skilled in the art would expect that applying TCM at an acidic pH would be effective in reducing unhealthy gases and pathogens as taught by Katzen. However, there is no indication that applying such a composition would be effective for insecticidal purposes. Thus, the effect that the presently claimed processes have on controlling Darkling beetles is not disclosed in the references, and could even be considered unexpected.

Applicant requests withdrawal of the § 103(a) rejection.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 43-48, 50, and 52-59) are now in condition for allowance.

Respectfully submitted,

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